

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

AUG 22 2006

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

MARIA DEL ROSARIO ZAMBRANO
BUITIMEA,

Petitioner,

v.

ALBERTO R. GONZALES,** Attorney
General,

Respondent.

No. 04-70576

Agency No. A79-290-411

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted August 18, 2006***
San Francisco, California

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** Alberto R. Gonzales is substituted for his predecessor, John Ashcroft, as Attorney General of the United States, pursuant to Fed. R. App. P. 43(c)(2).

*** This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Before: HAWKINS and THOMAS, Circuit Judges, and MILLER, **** District Judge.

Maria del Rosario Zambrano-Buitimea petitions for review of the Board of Immigration Appeals' ("BIA") summary affirmance of an immigration judge's ("IJ") denial of her application for asylum. Zambrano-Buitimea contends that the IJ denied her due process by pretermittting her asylum claim without taking any testimony on the claim. Zambrano-Buitimea, however, failed to raise this argument in her appeal before the BIA and thus failed to exhaust her administrative remedies. See Sanchez-Cruz v. INS, 255 F.3d 775, 780 (9th Cir. 2001). As this was a procedural error the administrative tribunal could have remedied, exhaustion is required, and we are without jurisdiction to review her claim. Id.; see also Barron v. Ashcroft, 358 F.3d 674, 678 (9th Cir. 2004).

The stay of voluntary departure will expire upon issuance of the mandate. See Desta v. Ashcroft, 365 F.3d 741 (9th Cir. 2004).

PETITION FOR REVIEW DISMISSED.

**** The Honorable Jeffrey T. Miller, United States District Judge for the Southern District of California, sitting by designation.